

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Alexander Medvinsky et al. GROUP ART UNIT: 2145
APPLN. NO.: 10/798,050 EXAMINER: Liu, Lin
FILED: March 11, 2004 Confirmation No.: 4973
TITLE: **METHOD AND SYSTEM FOR DISTRIBUTING DATA WITHIN A NETWORK**

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

In response to the Final Office Action mailed from the U.S. Patent and Trademark Office on July 11, 2008, Applicant requests review of the final rejection in the above-identified application. This request is being filed with a Notice of Appeal and required fee. No other fees are believed due; however, the Commissioner is hereby authorized to charge any additional fees which may be required at any time during the prosecution of this application without specific authorization, or credit any overpayment, to Deposit Account No. 50-2117.

No amendments are being filed with this request. The review is requested for the reasons stated in the remarks below.

STATUS OF CLAIMS

Claims 1-21 and 23-26 are pending in this application.

In the final Office Action dated July 11, 2008, claims 1-21 and 23-26 stand rejected under 35 U.S.C. § 103(a).

REMARKS

The rejections of claims 1-21 and 23-26 under 35 U.S.C. § 103(a) are respectfully traversed.

Claims 1-7, 9-21, and 23-26 stand rejected under 35 U.S.C. § 103(a) as being

allegedly unpatentable over Nakano et al., U.S. Publ. No. 2004/0196981 (hereinafter “Nakano”) in view of Nagel et al., U.S. Pat. No. 7,181,017 B1 (hereinafter “Nagel”). Claim 8 stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Nakano in view of Nagel and further in view of Brezak et al., U.S. Publ. No. 2002/0150253 (hereinafter “Brezak”). Applicants respectfully traverse the rejection.

The differences between independent claims 1 and 20, as amended, and the Nakano and Nagel references, taken either alone or in combination, are nonobvious for at least the following reasons: (1) the references do not disclose a “ticket granting ticket,” (2) the references do not disclose a “cross-realm key,” and (3) Nakano is an improper reference because it teaches away from “the service ticket has been authenticated using a ticket granting ticket encrypted with a cross-realm key.”

1. The references do not disclose a ticket granting ticket

Independent claims 1 and 20, as amended, require that “the service ticket has been authenticated using a ticket granting ticket encrypted with a cross-realm key.”

The final Office Action at page 4 cites Nakano for the foregoing feature. The portion of Nakano that the Office Action cites for this feature is Fig. 14, pages 7-8, paragraphs 111-112, and page 8-9, paragraphs 124-134. However, neither the cited portion nor any other portion of the Nakano reference discloses “the service ticket has been authenticated using a ticket granting ticket encrypted with a cross-realm key.”

Nakano teaches the use of only one kind of ticket. Nakano teaches an “electronic ticket” that is shown in Fig. 8, and that is described (at paragraph 0101) as having the following limitations: “[A]s shown in FIG. 8, the electronic ticket is comprised of a ticket ID, an access information ID, and an electronic signature.” Nakano goes on to specifically require certain features in its ticket: “The ticket ID is a unique ID identifying the electronic ticket. The access information ID is an ID indicating access destination information for acquiring content to be distributed with the electronic ticket . . .” (paragraph 0101).

The Examiner appears to equate the “service ticket” of the presently claimed invention to the “electronic ticket” of Nakano. However, Nakano does not disclose an electronic ticket that “has been authenticated using a ticket granting ticket encrypted with a cross-realm key,” as required by independent claims 1 and 20. Nakano does not

disclose or teach a “ticket granting ticket,” any use of a “ticket granting ticket,” or any encryption of a “ticket granting ticket.” Nakano teaches only one kind of ticket. The ticket of Nakano is not authenticated by another ticket.

It is not necessary to rely upon Applicant’s specification to understand the plain meaning of “ticket granting ticket” to be a ticket for granting another ticket. **The ticket of Nakano does not grant another ticket, and thus cannot be a “ticket granting ticket.”**

2. The references do not disclose a cross-realm key

Independent claims 1 and 20, as amended, require that “the service ticket has been authenticated using a ticket granting ticket encrypted with a cross-realm key.”

The present application discloses, at paragraph 0051, that each realm “has a key distribution centre (“KDC”) associated therewith” However, it is not necessary to rely upon Applicant’s specification to understand that a “cross-realm key” is something different from, as the Office Action argues at page 11, “any key that is being distributed across a network.”

In ordinary English usage, the phrase “distributed cross a network” does not make grammatical sense. “Distributed cross a network” thus cannot be the “broadest reasonable interpretation” of any claim term.

Even assuming, hypothetically, that the Office Action intended to use the term “across” rather than “cross,” it is noted that the plain meaning of the prefix “cross-” is not the same as “across.” For illustrative purposes: while “distributed across a network” would denote distribution over a **single** network, the hypothetical term “cross-network distribution” does not include the word “a,” and thus could reasonably be understood to mean distribution from one network to another network, rather than distribution over a single network.

Applicant points out that the Examiner improperly infers a past action – “**distributed**” – into the proposed “broadest reasonable interpretation” of “cross-realm key.”

Finally, the plain meaning of “realm” is not the same as “network.” Nakano nowhere discloses the concept or the use of a “realm,” or of a “cross-realm key.”

Rather, at paragraph 0102, Nakano discusses the use of encryption and a “secret key” with respect to the electronic ticket:

The electronic signature is something in which signature object information (in this case, the ticket ID and the access information ID) or a message digest that is the result obtained by processing information with a hash function is encrypted using a secret key of the server that generates the electronic ticket. In the present case, since the electronic ticket is generated by the electronic ticket management server 11, it is encrypted with a secret key K0 of the electronic ticket management server 11.

Thus, Nakano does not disclose the use of a “cross-realm key” for encryption. Instead, Nakano teaches that the electronic ticket of Nakano is generated by a server, and is encrypted with a secret key of the same server. **The secret key of Nakano is not “cross-” anything.**

To make up for the admitted absence of other features in Nakano, the Examiner relies on the Nagel and Brezak references. These limitations are also absent in Nagel and Brezak. Since Nagel and Brezak fail to supply a feature missing from Nakano, any combination of Nakano and Nagel and/or Brezak cannot suggest the invention and cannot render the claims obvious.

Thus, no matter how Nakano, Nagel, and Brezak may be combined (even assuming, arguendo, that one of ordinary skill in the art would be led to combine them) the resulting combination is not the invention recited in claims 1 and 20. Furthermore, the combination of the Nakano, Nagel, and Brezak references is not appropriate because a person of ordinary skill in the art would not look to the Nagel or Brezak references given the shortcomings of the Nakano reference.

3. Nakano Is an Improper Reference Because Nakano Teaches Away from the Aforementioned Features

Even if Nakano were combined with these or other prior art references, Applicant respectfully submits that Nakano **fails to provide a basis** for a rejection under 35 U.S.C. § 103, at least because Nakano **teaches away** from the feature of “the service ticket has been authenticated using a ticket granting ticket encrypted with a cross-realm key,” as recited in independent claims 1 and 20.

“A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant.” *In re Kahn*, 441 F.3d 977, 990 (Fed. Cir. 2006) (quoting *In re Gurley*, 27

F.3d 551, 553 (Fed. Cir. 1994)). Rather than “the service ticket has been authenticated using a ticket granting ticket encrypted with a cross-realm key,” Nakano teaches that a single type of ticket is to be used. Nakano teaches the use of an electronic ticket that is not authenticated using another ticket, or using another type of ticket, or using a “ticket granting ticket.” The ticket of Nakano is generated by a server, and is encrypted with a secret key of the same server, not a cross-realm key. Thus, a person of ordinary skill, upon reading the Nakano reference, would be led in a direction divergent from the path that was taken by the Applicants. Therefore, Applicants respectfully submit that Nakano fails to provide a basis for a rejection under 35 U.S.C. § 103. Because Nakano is an **improper basis** for rejecting Applicant’s claims, the combination of Nakano with Nagel or Brezak, or with any other prior art references, is also an improper basis for rejecting Applicants’ claims.

Conclusion

For at least the aforementioned reasons, independent claims 1 and 20 are patentable over the Nakano and Nagel references, either taken alone or in combination. Accordingly, the Examiner should withdraw the § 103 obviousness rejection as to independent claims 1 and 20.

Claims not specifically mentioned above are allowable due to their dependence on an allowable base claim. In light of the arguments presented above, it is respectfully submitted that all pending claims are in condition for allowance. Reconsideration and withdrawal of the final rejection of the claimed invention is respectfully requested.

Respectfully submitted,
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